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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,476	10/15/2003	James Timothy Stolzer	JK01483A	6646

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THE BLACK & DECKER CORPORATION  
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EXAMINER

PRONE, JASON D

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 05/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/686,476	STOLZER, JAMES TIMOTHY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jason Prone	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3 and 5-26 is/are pending in the application.
- 4a) Of the above claim(s) 7,9,15,17,24 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,6,10-14 and 18-23 is/are rejected.
- 7) ☒ Claim(s) 8,16 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 10-12, 18-20, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Kasper (1,745,099).

Claim 1:

Kasper discloses the same invention including a support surface for supporting a work piece (2), an adjustable retention member movable relative to the support surface for providing work piece positioning (13), a securing mechanism connected to the retention member and being constructive for securing the retention member in a desired orientation (12), and the retention member is capable of pivotally obtaining an extended orientation disposed substantially above the support surface (Fig. 3) and a retracted orientation disposed below the support surface (Fig. 2).

Claims 3 and 10:

In regards to claim 3, Kasper discloses the same invention including a deck for supporting a work piece (2), a positioning device, capable of being adjustable, disposed within the deck (6), a retention member connected to the adjustable positioning device (13), a securing mechanism connected to the retention member for securing the retention member in a desired orientation (12), and the retention member is capable of

pivotally obtaining an extended orientation exterior to the deck (Fig. 3) and a retracted orientation substantially retracted into the deck (Fig. 2).

In regards to claim 10, Kasper discloses an apparatus capable of being integrated with a power tool (Fig. 1, i.e. electric knife).

Claims 11, 12, 18, and 19:

In regards to claim 11, Kasper discloses the same invention including a housing (1) including a support surface for supporting a work piece (2) having a recess (10'), an adjustable positioning device disposed in the housing recess (6), a retention member connected to the adjustable positioning device (13), the retention member is configured to pivotally obtain an extended orientation (Fig. 3) and a retracted orientation (Fig. 2), a securing mechanism connected to the retention member for securing the retention member in a retracted orientation (12), and the retention member is capable of pivotally extending exterior to the housing (Fig. 3) and retracting substantially below the support surface (Fig. 2).

In regards to claims 12, 18, and 19, Kasper discloses an attachment device connected to the housing for attaching to a deck (4), the housing is capable of being included in a work deck (1), and the apparatus is capable of being integrated with a power tool (1).

Claims 20 and 23:

In regards to claim 20, Kasper discloses the same invention including a support surface for supporting the work piece (2), a means for adjustable positioning (6), a means for retaining a work piece in a desired position (13), a means for securing the

retaining means in a desired orientation (12), and the retaining means is capable of obtaining an extended orientation disposed substantially above the support surface (Fig. 3) and a retracted orientation disposed below the support surface (Fig. 2).

In regards to claim 23, Kasper discloses the retaining means is a cleat (13).

3. Claims 3, 5, 6, 10-14, and 18-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Windstrup (4,423,860).

Claims 3, 5, 6, and 10:

In regards to claim 3, Windstrup discloses the same invention including a deck for supporting a work piece (2), an adjustable positioning device disposed within the deck (40), a retention member connected to the adjustable positioning device (20), a securing mechanism connected to the retention member for securing the retention member in a desired orientation (35 and 44), and the retention member is capable of pivotally obtaining an extended orientation exterior to the deck (Fig. 7 ghost lines) and a retracted orientation substantially retracted into the deck (Fig. 7 solid lines).

In regards to claim 5, Windstrup discloses the adjustable positioning device is a threaded rod (40).

In regards to claim 6, Windstrup discloses the retention member includes an aperture (22) with segmented threads for pivotally engaging the threaded rod (42 and 44).

In regards to claim 10, Windstrup discloses an apparatus capable of being integrated with a power tool (Fig. 1, i.e. miter saw).

Claims 11-14, 18, and 19:

In regards to claim 11, Windstrup discloses the same invention including a housing (12) including a support surface for supporting a work piece (2) having a recess (Fig. 2), an adjustable positioning device disposed in the housing recess (40), a retention member connected to the adjustable positioning device (20), the retention member is configured to pivotally obtain an extended orientation and a retracted orientation (Fig. 7), a securing mechanism connected to the retention member for securing the retention member in a retracted orientation (35 and 44), and the retention member is capable of pivotally extending exterior to the housing (Fig. 7 ghost lines) and retracting substantially below the support surface (Fig. 7 solid lines).

In regards to claim 12, Windstrup discloses an attachment device connected to the housing for attaching the apparatus to a deck (3).

In regards to claim 13, Windstrup discloses the adjustable positioning device is a threaded rod (40).

In regards to claim 14, Windstrup discloses the retention member includes an aperture (22) with segmented threads for engaging the threaded rod (42 and 44).

In regards to claim 18, Windstrup discloses the housing is capable of being included in a work deck (12).

In regards to claim 19, Windstrup discloses the apparatus is capable of being integrated with a power tool (Fig. 1).

Claims 20-23:

In regards to claim 20, Windstrup discloses the same invention including a support surface for supporting the work piece (2), a means for adjustable positioning

(40), a means for retaining a work piece in a desired position (20), a means for securing the retaining means in a desired orientation (35 and 40), and the retaining means is capable of obtaining an extended orientation disposed substantially above the support surface (Fig. 7 ghost lines) and a retracted orientation disposed below the support surface (Fig. 7 solid lines).

In regards to claim 21, Windstrup discloses the adjustable positioning means is a threaded rod (40).

In regards to claim 22, Windstrup discloses the retaining means is adjustably connected to the adjustable positioning means (Fig. 7).

In regards to claim 23, Windstrup discloses wherein the retaining means is a cleat (20).

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1, 3, 10-12, 18-20, and 23 have been considered but are moot in view of the new ground(s) of rejection. However, the rejection, under Windstrup, of claims 3, 5, 6, 10-14, and 18-23 still remains, in light of further consideration given to the claim language. The term "substantial" is a relative term. Using Figure 7 of Windstrup, a larger portion of item 20 is below the support surface when item 20 is in the retracted or solid line position. Therefore, a substantial portion of item 20 is below the support surface relative to the extended or ghost line position. Also, a larger portion of item 20 is above the support surface when item 20 is in the extended or ghost line position. Therefore, a substantial portion of item 20 is above the support surface relative the retracted or solid line position.

***Allowable Subject Matter***

5. Claims 8, 16, and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Campbell and Brazell et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is (571) 272-4513. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 08, 2006



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A handwritten signature in black ink, appearing to read "Jason Prone". The signature is written in a cursive, flowing style.

Patent Examiner

Jason Prone

Art Unit 3724

T.C. 3700